

REFERENCE TITLE: child support; collection

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

## **SB 1294**

Introduced by  
Senator Harper

AN ACT

AMENDING SECTION 25-503, ARIZONA REVISED STATUTES; RELATING TO CHILD SUPPORT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 25-503, Arizona Revised Statutes, is amended to  
3 read:

4       25-503. Order for support; methods of payment; modification;  
5                   termination; statute of limitations; judgment on  
6                   arrearages; notice; security

7       A. In any proceeding in which there is at issue the support of a  
8 child, the court may order either or both parents to pay any amount necessary  
9 for the support of the child. If a personal check for support payments and  
10 handling fees is rightfully dishonored by the payor bank or other drawee, any  
11 subsequent support payments and handling fees shall be paid only by cash,  
12 money order, cashier's check, traveler's check or certified check. The  
13 department may collect from the drawer of a dishonored check or draft an  
14 amount allowed pursuant to section 44-6852. Pursuant to sections 35-146 and  
15 35-147, the department shall deposit monies collected pursuant to this  
16 subsection in a child support enforcement administration fund. If a party  
17 required to pay support other than by personal check demonstrates full and  
18 timely payment for twenty-four consecutive months, that party may pay support  
19 by personal check if these payments are for the full amount, are timely  
20 tendered and are not rightfully dishonored by the payor bank or other  
21 drawee. On a showing of good cause, the court may order that the party or  
22 parties required to pay support give reasonable security for these  
23 payments. If the court sets an appearance bond and the obligor fails to  
24 appear, the bond is forfeited and credited against any support owed by the  
25 party required to pay support. This subsection does not apply to payments  
26 that are made by means of a wage assignment.

27       B. On a showing that an income withholding order has been ineffective  
28 to secure the timely payment of support and that an amount equal to six  
29 months of current support has accrued, the court shall require the obligor to  
30 give security, post bond or give some other guarantee to secure overdue  
31 support.

32       C. In title IV-D cases, and in all other cases subject to an income  
33 withholding order issued on or after January 1, 1994, after notice to the  
34 party entitled to receive support, the department or its agent may direct the  
35 party obligated to pay support or other payor to make payment to the support  
36 payment clearinghouse. The department or its agent shall provide notice by  
37 first class mail.

38       D. The obligation for current child support shall be fully met before  
39 any payments under an order of assignment may be applied to the payment of  
40 arrearages. If a party is obligated to pay support for more than one family  
41 and the amount available is not sufficient to meet the total combined current  
42 support obligation, any monies shall be allocated to each family as follows:

43       1. The amount of current support ordered in each case shall be added  
44 to obtain the total support obligation.

1       2. The ordered amount in each case shall be divided by the total  
2 support obligation to obtain a percentage of the total amount due.

3       3. The amount available from the obligor's income shall be multiplied  
4 by the percentage under paragraph 2 of this subsection to obtain the amount  
5 to be allocated to each family.

6       E. Any order for child support may be modified or terminated on a  
7 showing of changed circumstance that is substantial and continuing, except as  
8 to any amount that may have accrued as an arrearage before the date of notice  
9 of the motion or order to show cause to modify or terminate. The addition of  
10 health insurance coverage as defined in section 25-531 or a change in the  
11 availability of health insurance coverage may constitute a continuing and  
12 substantial change in circumstance. Modification and termination are  
13 effective on the first day of the month following notice of the petition for  
14 modification or termination unless the court, for good cause shown, orders  
15 the change to become effective at a different date but not earlier than the  
16 date of filing the petition for modification or termination. The order of  
17 modification or termination may include an award of attorney fees and court  
18 costs to the prevailing party.

19      F. Notwithstanding subsection E of this section, in a title IV-D case  
20 a party, or the department or its agent if there is an assignment of rights  
21 under section 46-407, may request every three years that an order for child  
22 support be reviewed and, if appropriate, adjusted. The request may be made  
23 without a specific showing of a changed circumstance that is substantial and  
24 continuing. The department or its agent shall conduct the review in  
25 accordance with the child support guidelines of this state. If appropriate,  
26 the department shall file a petition in the superior court to adjust the  
27 support amount. Every three years the department or its agent shall notify  
28 the parties of their right to request a review of the order for support. The  
29 department or its agent shall notify the parties by first class mail at their  
30 last known address or by including the notice in an order.

31      G. If a party in a title IV-D case requests a review and adjustment  
32 sooner than three years, the party shall demonstrate a changed circumstance  
33 that is substantial and continuing.

34      H. The right of a party entitled to receive support or the department  
35 to receive child support payments as provided in the court order vests as  
36 each installment falls due. Each vested child support installment is  
37 enforceable as a final judgment by operation of law. ~~Unless it is reduced to~~  
38 ~~a written money judgment, an unpaid child support judgment that became a~~  
39 ~~judgment by operation of law expires three years after the emancipation of~~  
40 ~~the last remaining unemancipated child who was included in the court~~  
41 ~~order. Beginning on January 1, 2000, child support orders, including~~  
42 ~~modified orders, must notify the parties of this expiration date. The filing~~  
43 ~~of a request for a written money judgment before the end of that period~~  
44 ~~preserves the right to judgment until the court grants a judgment or the~~

1 court denies the request. A request does not need to be filed within three  
2 years if:

3 1. The court later determines that the actions or conduct of an  
4 obligor impeded the establishment of a written money judgment, including  
5 avoiding service or notice of that action, changing a name or social security  
6 number or leaving the state where the last support order was entered without  
7 notifying the party to whom support is ordered to be paid or the court or the  
8 department of that party's residential and mailing addresses.

9 2. The court later finds that the obligor threatened, defrauded or  
10 wrongfully coerced the obligee into not filing a request to reduce any  
11 support arrearages to a written money judgment.

12 I. The department or its agent or a party entitled to receive support  
13 may file a request for judgment for support arrearages not later than three  
14 years after the emancipation of all of the children who were the subject of  
15 the court order. In such a proceeding there is no bar to establishing a  
16 money judgment for all of the unpaid child support arrearages for all of the  
17 children who were the subject of the court order. Notwithstanding any other  
18 law, formal written judgments for support and for associated costs and  
19 attorney fees are exempt from renewal and are enforceable until paid in  
20 full. If emancipation is disputed, this subsection shall be liberally  
21 construed to effect its intention of diminishing the limitation on the  
22 collection of child support arrearages.

23 J. I. If a party entitled to receive child support or spousal  
24 maintenance or the department or its agent enforcing an order of support has  
25 not received court ordered payments, the party entitled to receive support or  
26 spousal maintenance or the department or its agent may file with the clerk of  
27 the superior court a request for judgment of arrearages and an affidavit  
28 indicating the name of the party obligated to pay support and the amount of  
29 the arrearages. The request must include notice of the requirements of this  
30 section and the right to request a hearing within twenty days after service  
31 in this state or within thirty days after service outside this state. The  
32 request, affidavit and notice must be served pursuant to the Arizona rules of  
33 civil procedure on all parties including the department or its agents in  
34 title IV-D cases. In a title IV-D case, the department or its agent may  
35 serve all parties by certified mail, return receipt requested. Within twenty  
36 days after service in this state or within thirty days after service outside  
37 this state, a party may file a request for a hearing if the arrearage amount  
38 or the identity of the person is in dispute. If a hearing is not requested  
39 within the time provided, or if the court finds that the objection is  
40 unfounded, the court must review the affidavit and grant an appropriate  
41 judgment against the party obligated to pay support.

1           **K.** J. If after reasonable efforts to locate the obligee the clerk or  
2 support payment clearinghouse is unable to deliver payments for a period of  
3 one hundred twenty days after the date the first payment is returned as  
4 undeliverable due to the failure of a party to whom the support has been  
5 ordered to be paid to notify the clerk or support payment clearinghouse of a  
6 change in address, the clerk or support payment clearinghouse shall return  
7 that and all other unassigned payments to the obligor unless there is an  
8 agreement of the obligor to pay assigned arrears and other debts owed to the  
9 state.

10          **L.** K. If the obligee of a child support order marries the obligor of  
11 the child support order, that order automatically terminates on the last day  
12 of the month in which the marriage takes place and arrearages do not accrue  
13 after that date. However, the obligee or the state may collect child support  
14 arrearages that accrued before that date. The obligee, the obligor or the  
15 department or its agent in a title IV-D case may file a request or  
16 stipulation to terminate or adjust any existing order of assignment, pursuant  
17 to section 25-504 or section 25-505.01.

18          **M.** ~~For the purposes of subsections H and I of this section, a child is~~  
19 ~~emancipated:~~

- 20          ~~1. On the date of the child's marriage.~~
- 21          ~~2. On the child's eighteenth birthday.~~
- 22          ~~3. When the child is adopted.~~
- 23          ~~4. When the child dies.~~
- 24          ~~5. On the termination of the support obligation if support is extended~~  
25 ~~beyond the age of majority pursuant to section 25-501, subsection A or~~  
26 ~~section 25-320, subsections E and F.~~